



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2020-0414; FRL-10022-71-Region 9]

Air Plan Approval; California; Sacramento Metro Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a revision to the Sacramento Metropolitan Air Quality Management District (SMAQMD) portion of the California State Implementation Plan (SIP). This revision concerns emissions of oxides of nitrogen (NO_x) from water heaters, boilers and process heaters. We are proposing to approve a local rule to regulate these emission sources under the Clean Air Act (CAA or the Act). We are taking comments on this proposal and plan to follow with a final action.

DATES: Comments must be received on or before [Insert date 30 days after date of publication in the *Federal Register*].

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R09-OAR-2020-0414 at <https://www.regulations.gov>. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER**

INFORMATION CONTACT section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>. If you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Robert Schwartz, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 972-3286 or by email at schwartz.robert@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, “we,” “us” and “our” refer to the EPA.

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I. The State’s Submittal

A. *What rule did the State submit?*

Table 1 lists the rule addressed by this proposal with the dates that it was adopted by the local air agency and submitted by the California Air Resources Board (CARB).

TABLE 1 - SUBMITTED RULE

Local Agency	Rule #	Rule Title	Amended	Submitted
SMAQMD	414	Water Heaters, Boilers and Process	10/25/2018	01/23/2019

Local Agency	Rule #	Rule Title	Amended	Submitted
		Heaters Rated Less Than 1,000,000 Btu per Hour		

On July 23, 2019, the submittal for SMAQMD Rule 414 was deemed by operation of law to meet the completeness criteria in 40 CFR Part 51 Appendix V, which must be met before formal EPA review.

B. Are there other versions of this rule?

We approved an earlier version of Rule 414 into the SIP on April 5, 2011 (76 FR 67366). The SMAQMD adopted revisions to the SIP-approved version on October 25, 2018, and CARB submitted them to us on January 23, 2019.

C. What is the purpose of the submitted rule revision?

Emissions of NO_x contribute to the production of ground-level ozone, smog and particulate matter, which harm human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control NO_x emissions. Rule 414 limits NO_x emissions from water heaters, boilers and process heaters rated less than 1 million Btu/hr.¹ The revised rule adds an exemption for hot water pressure washers (“washers”) in addition to several housekeeping changes. Washers unintentionally fell within the definition of water heaters subject to Rule 414 when it was originally adopted in 1996 but have never been regulated by the rule.² Washers are portable, installation of emissions controls is difficult/impractical, and there are currently no commercially available certified washers within the District that meet the rule’s NO_x emissions limits.³ The District has never taken emissions reductions credit for this source

¹ British thermal unit (Btu) per hour: the amount of heat required to raise the temperature of one pound of water from 59°F to 60°F at one atmosphere.

² SMAQMD, Statement of Reasons, Rule 414, Water Heaters, Boilers and Process Heaters Rated Less Than 1,000,000 Btu per Hour, and Rule 419, NO_x from Miscellaneous Combustion Units, Proposed Amendments September 24, 2018, p.5, 18.

³ Email dated March 8, 2021, from Kevin J. Williams, Ph.D, Program Supervisor, SMAQMD, to Doris Lo, Manager, Rules Office, Air and Radiation Division, Region IX, US EPA.

because washers were never counted as part of the emissions inventory.⁴ Therefore, the emissions reductions forgone (theoretical emissions reductions if this source had been included from the outset) has no impact on the rule's reduction commitment. Further, the emissions forgone are estimated to be only 0.1 to 0.3 percent of the 0.71 tons/day reduction commitment for Rule 414. The small forgone emissions will have no practical impact on the District's attainment plans for the 2008 or 2015 ozone national ambient air quality standards or reasonable further progress. The EPA's technical support document (TSD) has more information about this rule.

II. The EPA's Evaluation and Action

A. How is the EPA evaluating the rule?

Rules in the SIP must be enforceable (see CAA section 110(a)(2)), must not interfere with applicable requirements concerning attainment and reasonable further progress or other CAA requirements (see CAA section 110(l)), and must not modify certain SIP control requirements in nonattainment areas without ensuring equivalent or greater emissions reductions (see CAA section 193).

Generally, SIP rules must require reasonably available control technology (RACT) for each major source of NO_x in ozone nonattainment areas classified as Moderate or above (see CAA sections 182(b)(2) and 182(f)). The SMAQMD regulates an ozone nonattainment area classified as Severe-15 for the 2008 8-hour ozone National Ambient Air Quality Standards (NAAQS) and Moderate for the 2015 NAAQS (40 CFR 81.305). However, because this rule does not affect major sources, it does not need to implement section 182(b)(2) RACT. While section 182(b)(2) RACT does not apply, the Sacramento Federal Ozone Nonattainment Area is subject to the SIP requirement to provide for the implementation of all reasonably available control measures (RACM) and for attainment of the NAAQS. Guidance and policy documents that we used to evaluate enforceability, revision/relaxation and rule stringency requirements for

⁴ Id.

the applicable criteria pollutants include the following:

1. “State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,” 57 FR 13498 (April 16, 1992); 57 FR 18070 (April 28, 1992).
2. “Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations,” EPA, May 25, 1988 (the Bluebook, revised January 11, 1990).
3. “Guidance Document for Correcting Common VOC & Other Rule Deficiencies,” EPA Region IX, August 21, 2001 (the Little Bluebook).
4. “State Implementation Plans; Nitrogen Oxides Supplement to the General Preamble; Clean Air Act Amendments of 1990 Implementation of Title I; Proposed Rule,” (the NO_x Supplement), 57 FR 55620, November 25, 1992.
5. “Alternative Control Techniques Document – NO_x Emissions from Industrial/Commercial/Institutional (ICI) Boilers,” EPA 453/R-94-022 (March 1994).
6. “Alternative Control Techniques Document – NO_x Emissions from Process Heaters (Revised),” EPA-453/R-93-034 1993/09 (September 1993).

B. *Does the rule meet the evaluation criteria?*

This rule meets CAA requirements and is consistent with relevant guidance regarding enforceability, RACM, and SIP revisions. The TSD has more information on our evaluation.

C. *The EPA recommendations to further improve the rule*

The TSD includes recommendations for the next time the local agency modifies the rule.

D. *Public comment and proposed action*

As authorized in section 110(k)(3) of the Act, the EPA proposes to fully approve the submitted rule because it fulfills all relevant requirements. We will accept comments from the public on this proposal until **[Insert date 30 days after date of publication in the Federal Register]**. If we take final action to approve the submitted rule, our final action will incorporate this rule into the federally enforceable SIP.

III. Incorporation by Reference

In this rule, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the SMAQMD rule described in Table 1 of this preamble. The EPA has made, and will continue to make, these materials available through <https://www.regulations.gov> and at the EPA Region IX Office (please contact the person identified in the “FOR FURTHER INFORMATION CONTACT” section of this preamble for more information).

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA’s role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this proposed action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);

- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide the EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

AUTHORITY: 42 U.S.C. 7401 *et seq.*

Dated: April 15, 2021.

Deborah Jordan,
Acting Regional Administrator,
Region IX.

[FR Doc. 2021-08187 Filed: 4/20/2021 8:45 am; Publication Date: 4/21/2021]